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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

DECISION

FILE: B-190555

DATE: November 30, 1977

MATTER OF: Charles A. Baldwin - Real Estate Expenses -
Extension of Time Limit

DIGEST: Defense Investigative Service employee reassigned to Columbia, South Carolina, purchased a condominium incurring no reimbursable real estate expenses. Prior to end of first year at new station, employee requested an extension of time to purchase a residence beyond the 1-year time limit permitted by para. C14000.2, Volume 2, Joint Travel Regulations. The request was refused by the designated official because purchase of second residence would not be related to permanent change of station. GAO will not overturn such determination, absent showing that agency exceeded its powers or abused its discretion.

Mr. E. B. Kirkpatrick, Accounting and Finance Officer, Defense Investigative Service (DIS), has requested a decision on the propriety of his refusal to extend the 1-year time limit for an additional year to allow Mr. Charles A. Baldwin, a DIS employee, to purchase a second residence at his new official station and obtain reimbursement for such expenses.

Pursuant to official travel orders dated June 7, 1976, Mr. Baldwin was authorized a permanent change of station from Pensacola, Florida, to Columbia, South Carolina. He reported to Columbia, South Carolina, on September 12, 1976. On October 15, 1976, Mr. Baldwin purchased a condominium located in Lexington, South Carolina, a suburb of Columbia. The purchase of the condominium required no monetary reimbursement by the Government. On December 6, 1976, Mr. Baldwin submitted a travel voucher and documentation to the Disbursing Officer, Naval Regional Finance Center, Norfolk, Virginia, stating that no reimbursable expenses were claimed incident to the purchase. The voucher was returned to him with the notation that it was unnecessary to submit a claim for real estate expenses when no money was being claimed.

B-190555

On September 9, 1977, Mr. Baldwin requested an extension of the 1-year time limitation to continue seeking a permanent residence in Columbia, South Carolina. He stated that he purchased the condominium as a temporary residence in lieu of renting an apartment and therefore should be granted an extension.

The time limit in question is set forth in paragraph C14000.2, Volume 2, Joint Travel Regulations (JTR), and provides as follows:

"2. TIME LIMITATIONS ON RESIDENCE OR LEASE TERMINATION TRANSACTIONS. Except as provided herein, the settlement dates for the sale and purchase of a residence or lease termination transaction for which reimbursement is requested must be not later than 1 year after the date on which the employee reported for duty at the new permanent duty station. The year begins with the day following the date the employee reports for duty and ends on the date of the first anniversary. However, this time limitation may be extended, regardless of the reasons, by the commanding officer of the activity bearing the cost, or his designee, for not more than 1 additional year, provided it is determined that the particular residence transaction is reasonably related to the permanent change of station. The employee must submit a written request for such extension within 2 years after the date of reporting for duty at the new permanent duty station. A copy of the determination approving the extension must support the employee's request for reimbursement." (Emphasis added.)

On September 19, 1977, the Accounting and Finance Officer refused to grant the requested extension on the basis that the purchase of another residence by Mr. Baldwin would not be "reasonably related to the permanent change of station," in that this requirement was met with the purchase of the condominium. He advised Mr. Baldwin that the legality of this matter could be pursued with the Comptroller General if he wished to do so.

Mr. Baldwin accepted the opportunity to have his claim reviewed by the Comptroller General and stated his reasoning in a memorandum to Mr. Kirkpatrick dated September 29, 1977. Basically, his

B-190555

Justification for the extension is that he purchased the condominium as a temporary residence in lieu of renting an apartment. He says he did so both because the monthly payments would be about the same and because the condominium offered an income tax advantage over a rental apartment. However, the condominium was not intended to be a permanent residence and he needs an extension of time because he and his wife could not agree on the purchase of a home during the first year. He believes the request to be reasonable and justified under the regulations.

We note that paragraph C14000.2, 2 JTR, vests administrative discretion in the commanding officer of the activity or his designee to grant or refuse to grant extensions of the 1-year time limitation. In granting an extension the designated official must determine that the particular residence transaction is reasonably related to the permanent change of station. Based on the evidence before him, the Accounting and Finance Officer did not feel he could make such a determination in this case.

In reviewing the exercise of discretion given an agency in granting an extension of time to complete the purchase of a residence, pursuant to paragraph C14000.2, 2 JTR, it is not the function of a reviewing authority to substitute its judgment for that of the agency even for reasons which appear most persuasive. The fact that a challenged agency determination appears in retrospect to have been unwise or burdensome is insufficient to show that the agency exceeded its powers, inasmuch as lack of wisdom is not equivalent to an abuse of discretion. Lewis v. District of Columbia, 190 F.2d 25 (1951); Arrowhead Freight Lines v. United States, 114 F. Supp. 804 (1953); and Matter of Margaret E. Thorpe, B-187171, June 7, 1977.

In the case before us, we cannot say that the designated official's determination represented an abuse of discretion or exceeded his powers. Accordingly, we will not overturn the agency's determination denying Mr. Baldwin an extension of the 1-year time limit to purchase another residence at his new official station. However, the agency clearly has the discretion to allow the extension of time if it chooses to do so. Although it would be a second home purchase by the employee, he was not reimbursed for the condominium purchase. He is entitled to be reimbursed for the purchase of one dwelling at his new station, provided that the regulations are complied with. He has furnished

B-190555

a detailed statement justifying the extension in his memorandum of September 29, 1977, and we would have no objection if the agency, upon reconsideration, granted the extension.

Deputy

Atkinson
Comptroller General
of the United States